

***United States Court of Appeals
for the Second Circuit***



**APPELLANT'S
APPENDIX**

77-1124

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee

-vs-

DOCKET NO. 77-1124

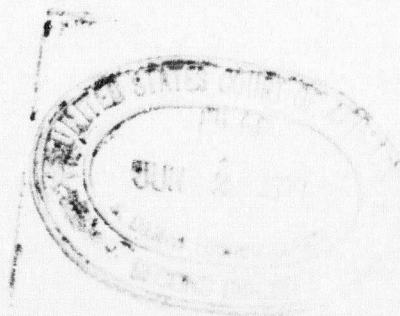
JOSEPH S. WILLIAMS,

APPENDIX FOR APPELLANT.

Defendant-Appellant

B
p/s

MORIARTY, ALLEN, LIPPES & HOFFMAN
(James F. Allen, of Counsel)
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UNITED STATES COURT OF APPEALS
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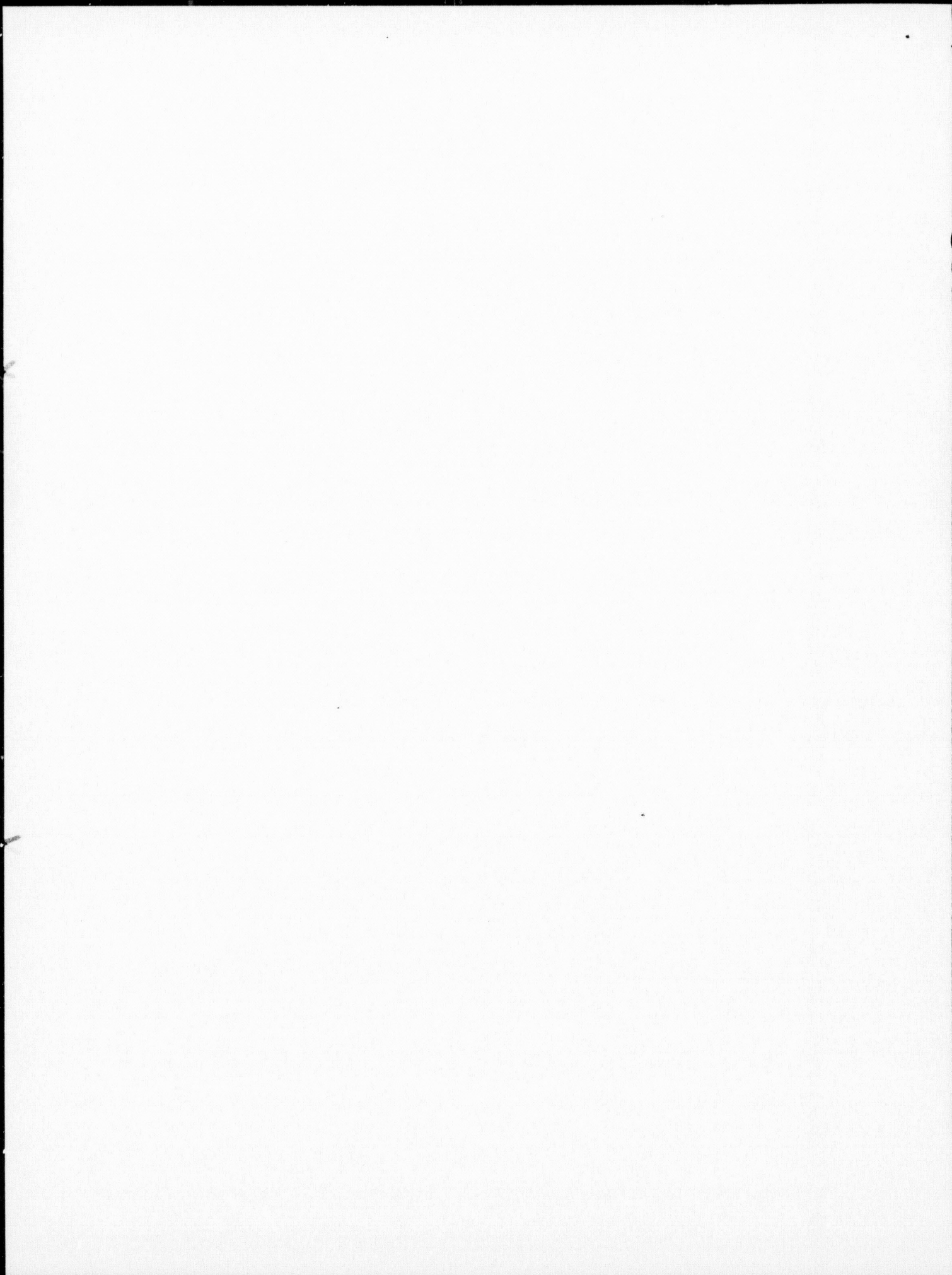
JOSEPH S. WILLIAMS

APPENDIX FOR APPELLANT.

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DOCKET ENTRIES

By stipulation of all counsel herein, Docket entries will be included in the appendix of appellee.

In the District Court of the United States

For the Western District of New York

THE UNITED STATES OF AMERICA

-VS-

JOSEPH S. WILLIAMS

MARCH 1976 Session ~~XXXXX~~

No.

CR 76-84

Vio. Title 18, United States
Code, Sections 1708
and 495

COUNT I

The Grand Jury charges:

That on or about the 15th day of May, 1976, in the Western District of New York, the defendant JOSEPH S. WILLIAMS did receive and unlawfully have in his possession a check, number 24,118,404, drawn on the Treasurer of the United States, and payable to the order of Elar Parker, in the amount of \$382.55, which had been stolen, taken and abstracted from the mail, the defendant JOSEPH S. WILLIAMS well knowing that said check had been stolen, taken and abstracted from the mail; all in violation of Title 18, United States Code, Section 1708.

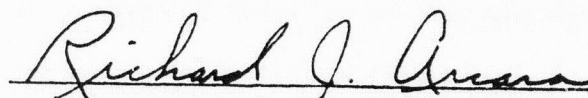
COUNT II

The Grand Jury Further Charges:

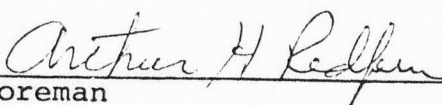
That on or about the 15th day of May, 1976, in the Western District of New York, the defendant JOSEPH S. WILLIAMS, with intent to defraud the United States, did utter and publish as true a paper writing in the form of a United States Treasury check, number 24,118,404, with a forged endorsement on the back thereof, to wit, the writing "Elar Parker" and the defendant JOSEPH S. WILLIAMS then and there

FPI-SS-0-21-70-1M-6114

well knew the endorsement to be forged; all in violation of
Title 18, United States Code, Section 495.


RICHARD J. ARCARA
United States Attorney

A TRUE BILL:


Foreman

1 drinking, but I wasn't watching what they was
2 drinking. I was just enjoying myself, you know, the
3 young people.

4 Q Mr. Williams, since May 15, 1976, you were hospitalized,
5 weren't you, at one time?

6 A One time for five days, I was in the Veterans Hospital.
7 I got robbed and assaulted, stabbed through the hand
8 and shoulder.

9 Q And during that period of time, did you lose any
10 weight?

11 A No, I didn't.

12 Q And what is your weight today?

13 A I weigh about two twenty-four.

14 Q You weigh two hundred twenty-four today?

15 A I might be weighing two twenty-five.

16 Q And how much did you weigh back in May of '76?

17 A In May of '76, I guess I weighed around two twenty-
18 eight, something like that, might have lost one or
19 two pounds or gained it back. I don't know.

20 Q Now, Mr. Williams, on May 27, 1968, pursuant to your
21 plea of guilty, you were convicted of attempted
22 forgery in the third degree, were you not?

23 A Yes, I were.

24 Q And, Mr. Williams, on June 16, 1975, in this court,
25 in this very courtroom, you again pleaded guilty to

1 another offense and were then convicted of possession
2 of stolen mail, a United States Treasury check, is that
3 not correct?

4 A That is correct, I was.

5 MR. BURNS: I have no further questions.

6 THE COURT: Anything else, Mr. Allen? Nothing
7 further. Thank you, Mr. Williams. Mr.
8 Allen, anything further?

9 MR. ALLEN: That is it, your Honor.

10 THE COURT: Ladies and gentlemen, maybe if you
11 step in the corridor for a minute. Do
12 you have any rebuttal, Mr. Burns?

13 MR. BURNS: No, your Honor.

14
15 (Jury escorted from the courtroom.)

16
17 THE COURT: I suppose the next thing is to
18 talk about the problems relating to the
19 exhibits and discuss requests to charge
20 and set a time for summations. Anything
21 else we should do with the jury before
22 we do that?

23 MR. BURNS: Nothing I can think of, your Honor.

24 THE COURT: Should we have the jury come back
25 at 2:30?

1 could have enlightened us on this score
2 simply was unable to say why Ridgeway
3 would lie, and also another point you
4 might want to remember in your delibera-
5 tions is that Mr. Williams, - Mr. Williams
6 is a man who admitted that he had been
7 convicted on two separate occasions
8 during the last eight years, felonies;
9 one involving attempted forgery or a
10 particular document.

11 THE COURT:

12 Just a minute, Mr. Burns. The only
13 reason, ladies and gentlemen, and I will
14 get to this in the charge, the only
15 reason that testimony was admitted was
16 that under the law it may have something
17 to do with credibility. It cannot be
18 considered by you as direct evidence that
19 he had any involvement with these checks.
20 You may weigh it only as to whether or
21 not he is a person that you can believe,
22 and simply that.

23 MR. BURNS:

24 Yes. I hope, - I certainly don't
25 want to leave any other impression in
your mind either. I am stressing these
convictions for this purpose, or bringing

1 it to your attention; here is a man who
2 has been convicted of attempted forgery
3 and on another occasion, possession of
4 a U.S. Treasury check stolen from the
5 mails in 1975. I am bringing these to
6 your attention so that you can determine
7 for yourself whether or not Mr. Williams
8 himself is a believable witness. Now,
9 both of these offenses involved deceit
10 and dishonesty. I urge you, ladies and
11 gentleman, that a person who has admitted
12 being deceitful and a person who has
13 admitted being dishonest on prior occasions
14 by pleading guilty to certain crimes is
15 a much less believable, much less credible
16 witness on the stand than are the other
17 witnesses in the case such as Mr. Ridgeway
18 who has not been impeached in any manner
19 by any conviction of any crimes, and also
20 Mrs. Benson, and so, ladies and gentlemen,
21 I think those are the essential points
22 which you should ponder and review while
23 you are in the jury room deliberating the
24 facts of this case.

25 I think I have outlined all the points

Instructions to Jury

Upon stipulation of all counsel herein, the instructions to the jury will be included in the appendix of the appellee.

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee

-VS-

JOSEPH S. WILLIAMS,

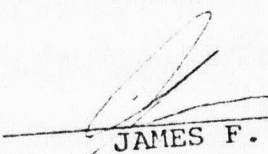
Defendant-Appellant

AFFIDAVIT OF SERVICE
BY MAIL

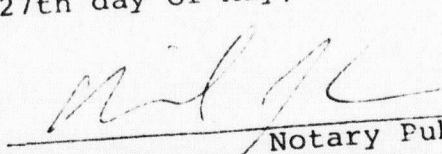
STATE OF NEW YORK)
COUNTY OF ERIE) SS:
CITY OF BUFFALO)

JAMES F. ALLEN, being duly sworn, deposes and says:

1. That deponent is not a party to this action and is over eighteen (18) years of age; that on the 27th day of May, 1977, deponent served the within appendix, and motion to file appendix out of time, along with a supporting affidavit on THEODORE J. BURNS, Assistant United States Attorney at 502 U.S. Court House, Buffalo, New York 14202, be depositing a true copy of same enclosed in a post-paid property addressed wrapper, in an official depository under the exclusive care and custody of the United States Post Office Department within the State of New York.


JAMES F. ALLEN

Sworn to before me this
27th day of May, 1977.


Notary Public

RICHARD J. LIPES
Notary Public, State of New York
Qualified in Erie County
My Commission Expires March 31, 1978

